

## REMARKS/ARGUMENTS

Claims 1-3, 5-15, 17-27 and 29-36 are in the case. The applicants have studied the office action mailed January 22, 2008 and have made the changes believed appropriate to place the application in condition for allowance. Reconsideration and reexamination are respectfully requested.

The Examiner has rejected claims under Sec. 112 on the basis of the terms “single” and “wherein said target file is not an object of said database” of the claims. The applicants respectfully disagree. However, in order to expedite prosecution, these terms have been deleted from the claims. It is respectfully submitted that the rejection on this basis should be withdrawn.

As set forth above and explained below, claims have been amended to overcome §112 objections and rejections raised for the first time by the Examiner in the latest Office Action. It is respectfully submitted that these amendments merely delete terms previously added in the prior response. It is therefore respectfully submitted that these amendments will not require a new search or raise new issues for consideration by the Examiner. It is submitted that these amendments place the claims in better form for appeal. These amendments were not presented earlier because they were deemed appropriate to advance prosecution after receipt of the latest Office Action. The Examiner is therefore respectfully requested to enter and consider these amendments after the final rejection.

Although Applicants amended claims to overcome the unpatentable rejection, Applicants are not conceding in this application that the claims in their pre-amended form are invalid for being unpatentable, as the present claim amendments and cancellations are only for facilitating expeditious prosecution. Also it is respectfully submitted that the amendments are made to clarify recited features and do not narrow the scope of the claimed inventions. Applicants respectfully reserve the right to pursue these and other claims in this present application and one or more continuations and/or divisional patent applications.

Claims 1, 3, 5-8, 13, 15, 17-20, 25, and 27, and 29-32 have been rejected under 35 U.S.C. 102(b) as being anticipated by Cannon (US Patent No. 6,098,074) issued August 1, 2000. Claims 2, 9, 11, 14, 21, 23, 26, 33, and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cannon (US Patent No. 6,098,074) filed October 29, 1997, in view of Maurer (US Patent Application No. 20030065780) filed September 27, 2002. Claims 10, 12, 22, 24, 34, and 36

have been rejected under 35 U.S.C. 103(a) as being unpatentable over Cannon (US Patent No. 6,098,074) filed October 29, 1997, in view of Maurer (US Patent Application No. 20030065780) filed September 27, 2002, and further in view of "Logical vs. Physical File System Backup", By: Hutchinson, Published: 1999; referred to hereinafter as 'Hutchinson'. These rejections are respectfully traversed.

As set forth above, Claim 1 requires "using the at least one object, restoring the contents of the source device from the at least one object to *a target file* in a file system stored on a storage device so that *the target file contains* said contents of the source device [wherein the contents of the source device includes a plurality of files and a file directory of the source device]." [Emphasis added.] In contrast, it is believed that the Examiner's citations to the "Client Restore" (col. 14, lines 1-13) of the Cannon reference describe using a database object to restore a volume containing files to the same or another volume so that it contains those *same* files. Thus, in the Cannon reference, a *plurality of files* are restored, via the database object, unchanged, on a one-to-one basis, as the same plurality of files. It is respectfully submitted that the Examiner has cited no portion of the Cannon reference which teaches or suggests that the Client Restore of the Cannon reference restores a plurality of files, in effect on a plurality-to-one basis, that is, as "*a target file*" which target file "*contains said contents of the source device*" wherein the contents of the source device includes "*a plurality of files and a file directory of the source device*".

The Examiner has cited the "Storage Pool Restore" (col. 17, lines 17-44) of the Cannon reference. However, it is believed that the Examiner's citations to the "Storage Pool Restore" of the Cannon reference describe using a database object within the database to restore that database object as the same database object to another location within the database. Thus, it does not appear that the nature of the database object changes when it is copied to another location. Accordingly, a database object having one or more files will, after copying to another location, have the same number of files as before. The Examiner has cited no portion of the Cannon reference which teaches or suggests "using the at least one object, restoring the contents of the source device from the at least one object to *a target file* in a file system stored on a storage device so that *the target file contains* said contents of the source device [wherein the contents of the source device includes a plurality of files and a file directory of the source

device]" as required by claim 1 [emphasis added]. Instead, it appears that the database object of the Cannon reference is restored as the same object unchanged at another location.

The deficiencies of the Examiner's citations to the Cannon reference are not met by the Examiner's citations to the Maurer or Hutchinson reference as set forth above. Independent claims 13 and 25 may be distinguished in a similar fashion. The rejection of the dependent claims is improper for the reasons given above. Moreover, the dependent claims include additional limitations, which in combination with the base and intervening claims from which they depend provide still further grounds of patentability over the cited art.

For example, dependent claim 11 further requires: "... wherein said target file is a flat file." It is the Examiner's position that the Maurer reference teaches "wherein said target file is a flat file" citing paragraph 0074 of the Maurer reference. The applicants respectfully disagree.

It is respectfully submitted that the cited paragraph discusses creating a map of the logical configuration of the physical devices on the source computer system in the form of a flat file:

[0074] The method further includes discovering logical information related to the Standard volumes that are part of the volume group on the source computer system 113a. A map of the logical information to physical devices on the source computer system is created, preferably in the form of a flat file that may be converted into a tree structure for fast verification of the logical information. That map is used to build a substantially identical logical configuration on the target computer system 113b, preferably after the logical information has been verified by using a tree structure configuration of the logical information. Maurer reference, paragraph 74.

Table 2 of the Maurer reference provides an example of such mapping information. The Examiner has cited no portion of the Mauer reference which in any manner teaches or suggests that such a flat file contains the restored contents of a source device wherein the contents of the source device includes both a plurality of files and a file directory of the source device as required by claims 1 and 11. Instead, in the Maurer reference, restoring files from a source standard volume is believed to be from either "the BCV's [business continuation volumes] on the target or tape."

As explained in the present specification, the claimed method permits the contents of a source device to be restored from a single file, the recited "a target file". By comparison, it appears that a restoration method in accordance with the Maurer reference, utilizes many

separate files, including a “tree structure file” which maps the logical configuration of the computer system as described at paragraph 74 of the Maurer reference, together with the data files containing the actual backed up data itself stored in either “the BCV's [business continuation volumes] on the target or tape” as described at paragraph 110 of the Maurer reference.

Moreover, a method in accordance with the present description can, in one embodiment, readily permit the restoration of the source device contents using an operating system command such as the Unix “dd” command, to copy the contents of the target file to the target device (see claim 12) to restore the contents of the source device. Such contents are not limited to any particular type of data or application. Furthermore, such a Unix command does not require operation of any application programs. By comparison, the “redo log” of the Maurer reference appears to be a part of the Oracle database and the database restore operation is performed by the Oracle database program using the redo log and the BCV's on the target or tape. Maurer reference, paragraphs 106-111.

In view of the above, it is respectfully submitted that the rejection of the claims be withdrawn.

The Examiner has made various comments concerning the obviousness or anticipation of certain features of the present inventions. Applicants respectfully disagree. Applicants have addressed those comments directly hereinabove or the Examiner's comments are deemed moot in view of the above response.

### Conclusion

For all the above reasons, Applicant submits that the pending claims are patentable over the art of record. Applicants have not added any claims. Nonetheless, should any additional fees be required, please charge Deposit Account No. 09-0466.

The attorney of record invites the Examiner to contact him at (310) 553-7970 if the Examiner believes such contact would advance the prosecution of the case.

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